

**UNITED STATES OF AMERICA, Plaintiff, vs. INDIANAPOLIS BAPTIST
TEMPLE, DIXON, GREGORY JEROME, NBD BANK, INC., Defendants.**

CAUSE NO. IP98-0498-C-B/S

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, INDIANAPOLIS DIVISION**

2000 U.S. Dist. LEXIS 12957

September 5, 2000, Decided

NOTICE: [*1] NOT FOR PUBLICATION

CORE TERMS: quarterly, modified, default, reconsider, complying

COUNSEL: For UNITED STATES OF AMERICA, plaintiff: DOUGLAS SNOEYENBOS, TRIAL ATTORNEY, TAX DIVISION, UNITED STATES DEPARTMENT OF JUSTICE, WASHINGTON, DC.

For UNITED STATES OF AMERICA, plaintiff: HAROLD BICKHAM, ASST. U.S. ATTORNEY, INDIANAPOLIS, IN.

For INDIANAPOLIS BAPTIST TEMPLE, DIXON, GREGORY JEROME, defendants: ALBERT F CUNNINGHAM, ATTORNEY AT LAW, MONTGOMERY CREEK, CA.

For DIXON, GREGORY JEROME, defendant: GREGORY J DIXON, INDIANAPOLIS, IN.

For NBD BANK, INC., defendant: STEVEN L YOUNT, ATTORNEY AT LAW, INDIANAPOLIS, IN.

JUDGES: SARAH EVANS BARKER, CHIEF JUDGE, United States District Court, Southern District of Indiana.

OPINION BY: SARAH EVANS BARKER

OPINION:

ORDER TO SHOW CAUSE

By previous entries dated January 19, 1999, and June 29, 1999, we determined that Defendant, Indiana Baptist Temple ("IBT"), failed to pay to the United States in excess of \$ 5 million in tax liability and entered final judgment in favor of the United States and against IBT. On November 10, 1999, we stayed execution of the judgment and imposed certain conditions as a partial

assurance to the government during the pendency of IBT's appeal of our judgment. On February 10, 2000, we [*2] modified that stay to include additional guarantees, including the following: (1) IBT was ordered to submit to the Court monthly financial statements; (2) IBT was ordered to submit to the Court quarterly information reflecting the information covered by IRS Form 941 and to calculate its potential federal employment tax obligation; and (3) IBT was required to deposit into the Court's escrow fund on a quarterly basis the amount equal to IBT's estimated quarterly employment tax obligation. IBT has, by its own admission, not complied with any of these conditions imposed in the modified stay as a condition of our staying execution of the judgment. IBT is therefore currently in default of its obligations pursuant to the Court's orders.

Though acknowledging that it is in default, IBT asks us to reconsider our orders and revert to the conditions initially imposed by our November 10, 1999, entry. We have previously determined that the modified conditions are fully warranted, and the Seventh Circuit, having reviewed our orders, has not overturned them. We find no good or sufficient reason to reconsider those rulings further.

We have delayed acting on IBT's default while the Seventh Circuit [*3] reviewed the merits of our earlier decision granting summary judgment in favor of the United States, which that court recently affirmed on August 14, 2000, and for which it issued its mandate on September 1, 2000.

Counsel for defendant has informed the Court that IBT has no intention of complying with the conditions of our February 10, 2000, Entry Staying Execution of the Judgment. Indeed, counsel for Defendant has indicated that his clients have no intention of complying with the Courts' decisions on the merits, should they continue to stand after defendant's petition for certiorari is passed on by the Supreme Court and that his clients fully understand the consequences of such noncompliance will

likely entail execution on the judgment and a resultant seizure of IBT's property. IBT's actions, it appears, leave the Court with no alternatives.

Nonetheless, we hereby ORDER the Defendant, Indianapolis Baptist Temple, to SHOW CAUSE within ten (10) days why the judgment of this District Court as af-

firmed by the Seventh Circuit Court of Appeals should not be enforced forthwith.

It is so ORDERED this 5th day of September 2000.

SARAH EVANS BARKER, CHIEF JUDGE

United States District [*4] Court

Southern District of Indiana